REMARKS

In the Official Action dated October 21, 2003, claims 30, 31, 33 and 34 have been allowed.[1] Claims 21, 29 and 32 have been rejected. The specification has been objected to because of the alleged informalities.

This response addresses each of the Examiner's objections and rejections. Accordingly, the application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

The specification has been objected to as allegedly containing informalities. In response, Applicants have amended Figure 7 to insert sequence identifiers. The Examiner alleges that reference to the color blue has not been addressed. Applicants respectfully direct the Examiner's attention to the amendment submitted on July 24, 2003 wherein Applicants added the appropriate reference to a patent application containing at least one drawing executed in color. Accordingly, withdrawal of all objections to the specification is respectfully requested.

Claim 21 and 29 have been rejected under 35 U.S.C. §112, first paragraph as allegedly lacking enablement. The Examiner alleges that Harlow et al., *Antibodies* 1988, p. 76 teach that a minimum of six amino acids is required by antigenicity (emphasis added). In response, Applicants respectfully submit that Harlow et al. place no specific length requirement on a peptide in assessing the ability of the peptide to elicit antibodies. Harlow et al. merely teach that the elicitation of antibodies is consistently achieved with peptides having at least six residues in length. However, Harlow et al. specifically state that "responses to smaller peptides are typically weak..." Applicants are aware of no requirement that the efficacy of a particular invention be

supported by statistically significant or exceptional data. Assuming a peptide of four amino acids in length would elicit a weak or even a poor antibody response such showing is no less of an invention and certainly not in contravention of the enablement standards under 35 U.S.C. §112, first paragraph. Applicants submit that the skilled artisan readily appreciates the CLLS peptide construct and the generation of an antibody that would bind to such peptide would be well within the ken of the skilled artisan. Accordingly, the rejection of claims 21 and 29 under 35 U.S.C. §112, first paragraph is overcome and withdrawal thereof is respectfully requested.

Claims 21 and 32 have been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over United States Patent No. 5,846,933 in view of Harlow et al. The Examiner specifically alleges that the '933 patent teaches SEQ ID NOS:6 and 51, both of which consist of LSDSGQVL which are residues 7-14 of SEQ ID NO:12 of the present invention. The Examiner alleges that the '933 patent teaches that SEQ ID NOS:6 and 51 have therapeutic utility. The Examiner admits that the '933 patent fails to teach antibodies directed against SEQ ID NO:12 but relies on Harlow et al. for the teaching of procedures for making antibodies.

Applicants respectfully submit that the Examiner failed to point to any teaching or suggestion in either reference which would motivate the skilled artisan to generate an antibody against the sixteen peptide recited in claim 32. The fact that the prior art understands methods for generating antibodies to peptides, generally, simply does not motivate the skilled artisan to generate antibodies against the peptide of the present invention. Absent a suggestion that such antibodies (such as those claimed in claim 32) are even contemplated, which suggestion is not found in the '933 patent, the

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1 Applicants note that claim 34 has been previously withdrawn from consideration.

rejection under 35 U.S.C. §103(a) must fail. Moreover, the Examiner has clearly used the aid of hindsight, by searching for fragments of the claimed peptide to construct an argument premised on 35 U.S.C. §103(a). This is clearly not permissible under the law and withdrawal of the rejection of claims 21 and 32 under 35 U.S.C. §103(a) is respectfully requested.

Thus, in view of the foregoing amendments and remarks, the application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

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